United Nations CRPD/C/ZAF/Q/1/Add.1

Convention on the Rights of Persons with Disabilities

Distr.: General
2 July 2018

Original: English
English, Russian and Spanish only

Committee on the Rights of Persons with Disabilities
Twentieth session
27 August–21 September 2018
Item 5 of the provisional agenda
Consideration of reports submitted by parties to the Convention under article 35

List of issues in relation to the initial report of South Africa

Addendum

Replies of South Africa to the list of issues*

[Date received: 20 June 2018]

* The present document is being issued without formal editing.

GE.18-10763(E)
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Please recycle

A. Purpose and general obligations (arts. 1–4)

1. Please describe the efforts made by the State Party to ensure that the concept of disability is fully in line with the human rights model of disability stated in the Convention in all legislation and policies and especially the White Paper on an Integrated National Disability Strategy (INDS) in 1997 as well as in areas, such as employment equity, social security, the built environment and civil aviation.

1. South Africa's new disability rights policy, The White Paper on the Rights of Persons with Disabilities, (referred to as the WPRPD hereafter), approved by Cabinet in 2015, aligns the concept of disability to the UNCRPD within a human rights framework. The WPRPD requires a review of all legislation in line with CRPD, including the concept of disability.

2. The interpretation of disability within a human construct finds life in a number of sector policies approved since submission of the Country's Initial Report, inclusive of:

(a) The Policy on Screening, Identification, Assessment and Support of 2014, (SIAS) advocates that the assessment of learners with disabilities be to determine the level and type of support required by learners (as opposed to measuring deficit in the past);

(b) The Framework and Strategy for Disability and Rehabilitation Services in SA 2015–2020 (2016) is designed to take into consideration the human rights of service users, and makes provision for services to be offered where users live;

(c) With regards transport, a process has been initiated to develop a suite of universal design standards across the travel chain to give interpretation to the requirements of the National Land Transport Act (No. 5 of 2009). This will significantly improve access to public transport for persons with disabilities across all inter-sectionalities.

2. Please provide information about:

(a) Progress made in order to domesticate the Convention and to what extent persons with disabilities can invoke its provisions in court proceedings;

3. A preliminary audit of existing legislation was undertaken in 2015–16. Several options have been identified for full domestication of the Convention, and the South African Law Reform Commission is currently tasked with taking forward the process of determining the most effective and efficient route. This must take into consideration the extent of law reform required, as well as existing statutes, such as the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000 (Act No. 4 of 2000) PEPUDA, which, as the overarching anti-discriminatory law, gives life to the Equality clause in the Bill of Rights.

4. All 382 Magistrate's Courts and High Courts in South Africa serve as Equality Courts. When interpreting South African law, every court must prefer any reasonable interpretation of the legislation that is consistent with international law to any alternate interpretation that is inconsistent with international law.

5. This, together with other legislation highlighted in the Initial Country Report, enables persons with disabilities to invoke many of the provisions of the Convention in court proceedings, although not the Convention itself.

(b) Measures taken to consult with, and effectively involve, persons with disabilities, particularly women, children, persons with psychosocial and/or intellectual disabilities, and those living in institutions and in rural areas, through their representative organizations in national decision-making processes, including on matters that specifically affect them;

6. South Africa remains committed to strengthening the culture of self-representation of persons with disabilities through meaningful consultation with representative organisations of persons with disabilities on matters affecting persons with disabilities.

Examples of policies developed and approved over the past 4–5 years, all of which included significant consultation with representative organisations of persons with disabilities, include the WPRPD (2015); the SIAS 2014; the Disability Framework for Post School Education and Training (2017); the national rehabilitation policy; the Policy on Reasonable Accommodation and Assistive Devices in the Public Sector, and the ICT Sector Strategy for Persons with Disabilities.

7. The SIAS for example require parent and learner participation in decision-making and provincial education departments report quarterly on partnerships with organisations of persons with disabilities.

8. As a rule, each sphere of government consults with correlating level of organisations at national, provincial and local spheres. For example, the National Disability Rights Machinery is inclusive of 22 national organisations of and for persons with disabilities. Persons with psychosocial disabilities are directly represented through their non-governmental organisations (NGOs). Women and youth are represented through the women and youth sub-structures of organisations. Children and adults with intellectual disabilities are represented by parent organisations, as well as service organisations. A similar approach is followed at provincial level, with eight of the nine provinces having established provincial disability rights machineries.

9. The Ministerial Advisory Committee on Mental Health was established in terms of section 71 of the Mental Health Care Act, 2002 (Act No. 17 of 2002) and includes two representatives from Non Profit Organisations of Mental Health Care. This self-representation is provided for by regulation 3 of the "Regulations Establishing the Ministerial Advisory Committee on Mental Health" (Government Gazette No. 37978, Notice No. 699, 5 September 2014).

10. The WPRPD acknowledges the need to strengthen participation by under-represented groups, such as children with disabilities, adults with psychosocial and/or intellectual disabilities, as well as groups where inter-sectionality leads to under-representation. The draft National Framework for Self-representation for Persons with Disabilities is currently being consulted with disability organisations and will provide the basis for a regulatory framework to entrench consistency in consultation with representative organisations of persons with disabilities across all three spheres of government.

(c) Measures taken to strengthen the organisations of persons with disabilities, including through funding, accessible information and methodologies to enable them approach their internal matters in a comprehensive manner and participate effectively in the development and implementation of legislation and policies.

11. Funding for selected organisations of persons with disabilities are currently allocated based on submission of business plans at national and provincial level, predominantly for community-based self-advocacy, peer support, empowerment and counselling programmes, as well as for organisational development. The WPRPD advocates for prioritised funding for under-represented groups, and funding has in recent years shifted to some extent from funding service organisations towards funding under-represented organisations such as Deaf-Blind South Africa, Albinism Society of South Africa and the Disabled Children Action Group (parents organisation representing families with children with disabilities from predominantly impoverished and under-serviced communities).

12. The National Framework for Self-Representation, once approved, will significantly improve predictability and scope of support for organisations of persons with disabilities.

B. Specific rights of the Convention

Equality and non-discrimination (art. 5)

3. Please provide information about:

(a) Measures taken by the State Party to prevent and address multiple and intersectional discrimination faced by persons with disabilities, particularly women and girls with disabilities, persons with psychosocial and/or intellectual disabilities, persons with disabilities in minority communities and indigenous peoples also called [native Africans], and persons with albinism and indicate whether and how the State party's legislation and public policies include their requirements;

13. The Equality Clause in the Bill of Rights in the South African Constitution (1996) is, as elaborated upon in the Initial Country Report, premised on the principle of "equality of outcome", also for persons with disabilities at risk of experiencing multiple and intersectional discrimination on the basis of gender, age, type and severity of disability, sexual orientation, geographical location or socio-economic status. PEPUDA Act, 2000 (Act No. 4 of 2000) supports the elimination of discrimination by compelling reasonable accommodation support for persons with disabilities.

14. The current draft of the Hate Speech and Hate Crimes Bill, currently before Parliament for consideration, includes specific provisions for hate speech and hate crimes committed against persons with albinism. Multi-sectoral ongoing public awareness and education campaigns on the rights of persons with albinism are being conducted in at least four provinces.

15. The National Gender Based Violence Command Call Centre launched a Deaf Access facility in recognition of the lack of access Deaf girls and boys, women and men have to counselling and information.

16. The WPRPD prioritises protecting the rights of persons at risk of compounded marginalisation, for example refugees and displaced persons with disabilities and African children with multiple disabilities living in impoverished or rural communities.

(b) Whether its anti-discrimination legislation applies to all persons with disabilities, including persons with intellectual and/or psychosocial disabilities and about measures taken to prevent discrimination against persons with disabilities by private actors, including within families, especially measures taken to combat cultural practices which discriminate against persons with disabilities;

17. The PEPUDA Act, 2000 (Act No. 4 of 2000) applies to all persons with disabilities, and is enforceable in both the public and private domains.

18. The Equality Review Committee initiated a campaign on the use of Equality Courts, reaching 3 provinces. Persons with disabilities and their families were identified as a specific target group for these sessions.

19. In terms of measures taken to combat harmful cultural practices, the majority of disability rights advocacy campaigns escalate into the National Disability Rights Awareness Month in November and the Human Rights Month in March.

(c) Measures taken to extend the application of reasonable accommodation across all sectors and that reasonable accommodation is provided by public and private actors in relation to all rights of persons with disabilities, and indicate whether the denial of reasonable accommodation is defined as a form of discrimination on the basis of disability and prohibited under the domestic law.

20. As indicated in the Initial Country Report, the denial of reasonable accommodation is defined as a form of discrimination on the basis of disability under the PEPUDA Act, 2000 (Act No. 4 of 2000).

21. Examples of specific measures taken since submission of the Initial Country Report include, among others:

- The Employment Equity Act, 1998 (Act No. 55 of 1998) was amended in 2013 to strengthen affirmation and enforcement of employment equity measures for persons with disabilities. The concomitant Technical Assistance Guidelines on the Employment of Persons with Disabilities was subsequently strengthened to broaden recommendations for reasonable accommodation support for a wider range of persons with disabilities in both the private and public sectors;
- The public service approved the Policy on Reasonable Accommodation and Assistive Devices for Employees with Disabilities in the Public Service in December 2014, with the concomitant Determination released in July 2015 to enforce compliance. All national and provincial government departments are obliged to report progress on the provision of reasonable accommodation and assistive devices on an annual basis. Section 10.9 of the policy states that "An employee with a disability whose request for reasonable accommodation or assistive devices has been declined must be afforded an opportunity to make representation to the Head of Department or Head of Institution against the decision not to provide reasonable accommodation measure or assistive devices and the Executive Authority must be the final arbitrator". In addition, the determination and directive on leave of absence in the public service dated June 2015, makes provision for an additional 5 day special leave for parents of children with "severe special needs";
- The approval of the Policy on Screening, Identification, Assessment and Support in Basic Education, which standardises reasonable accommodation support for both public and private schools;
- The Strategic Policy Framework on Disability in the Post School Education and Training System was gazetted on 6 April 2018. This policy framework guides all institutions in this sector on what is required from them to provide support to students with disabilities. The National Student Finance Assistance Scheme has broadened its reasonable accommodation support measures to colleges and universities to be inclusive of personal assistance;
- Sunscreen is available free of charge at clinic level to indigent persons with albinism as part of the Essential Drug List for Primary Healthcare, and the Albinism Care Pack in one province thus far has been extended to include protective clothing and sunglasses, among others;
- The WPRPD has a specific focus area directing action towards extending reasonable accommodation consistently across all sectors. A national Framework on Reasonable Accommodation for Persons with Disabilities has been finalised and is awaiting Cabinet approval by April 2019.

(d) Measures taken to promulgate chapter 5 of the Promotion of Equality and Prevention of Unfair Discrimination Act (PEPUDA);

22. The promulgation of Chapter 5 of the PEPUDA Act, 2000 (Act No. 4 of 2000) has been included in the 2018/19 Legislative Programme.

(e) Reports of violations of the rights of persons with disabilities, particularly reports on discrimination on the ground of non-application of reasonable accommodation, and statistics on the number of investigations conducted, sanctions imposed and/or remedies provided to victims, particularly women and girls with disabilities, who have been affected by multiple and/or intersectional forms of discrimination;

23. A number of institutions are tasked with receiving and investigating complaints on the basis of different forms of discrimination, inclusive of the South African Human Rights Commission, the Commission on Gender Equality, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission on Conciliation, Mediation and Arbitration, the Public Protector, as well as the Equality Courts, the Labour Court and the Constitutional Court.

24. There is, however, no integrated system which keeps record of the number of investigations, sanctions imposed and/or remedies provided to victims.

(f) Measures taken to eliminate barriers that hinder access by persons with disabilities to equality courts and remedies provided in the Promotion of Equality and Prevention of Unfair Discrimination Act, 2000.

25. A Practice Court Services Model for Persons with Disabilities, to remove barriers to the court system, was developed in 2016 through consultation with all relevant stakeholders, inclusive of disability organisations. Work has commenced on the development of a Code of Practice under the PEPUDA Act, 2000 (Act No. 4 of 2000) which responds to Articles 13.1 and 9 of the UNCRPD.

Please also provide information about the number and percentage of complaints brought before the South African Commission on Human Rights at the provincial level in the last three years and the investigation and sanctions imposed as well as the percentage of the complaints dismissed.

26. With regards complaints brought before the South African Human Rights Commission, the State Party has agreed with the Commission that the Committee source this information directly from the Commission.

Women with disabilities (art. 6)

4. Please provide information about:

(a) Measures taken to empower women and girls with disabilities as rights holders, and to mainstream their rights in gender equality policies and strategies, as well as in policies aimed at combating violence, including sexual violence, discrimination, exploitation, and abuse against women;

27. Measures taken include, among others:

- Women and girls with disabilities are included as a specific target group in the annual 16 Days Activism Campaign for No Violence Against Women and Children, as well as in the #365 Days of No Violence Against Women and Children Programme. National Dialogues were launched in 2016 and are currently being rolled-out to all provinces and district municipalities;
- Children with disabilities — and the girl-child with disabilities in particular — is a specific focus of the annual Child Protection Week;
- Participation of girl children with disabilities is an institutionalised component of the Annual Mandela Children's Parliament;
- The current review process of existing Gender Policy, Disability and Youth Development Frameworks for Local Government includes building a disability dimension into the Gender and Youth Development Frameworks, and engendering the Disability Framework;
- Women with disabilities in the water and sanitation sector is a designated target group for all community-based empowerment projects in this sector, and a specific category in this regard has been created in the Water Services Award Programme.

(b) Measures, including affirmative action measures, aimed at addressing multiple and intersecting forms of discrimination against black women and girls with disabilities, including discrimination arising from traditional and cultural practices;

28. The WPRPD acknowledges the need for specific measures required to reduce the risk of compounded marginalisation because of inter-sectionality, among others race and gender.

29. The WPRPD furthermore directs that a minimum of 50% of affirmative action economic opportunities targeting persons with disabilities, be allocated to women with

disabilities, and a minimum of 7% (concomitant to the disability demographics in the country) of affirmative action opportunities targeting women in general, be allocated to women with disabilities.

30. The amended Employment Equity Act, 1998 (Act No. 47 of 1998) as well as the amended Broad-based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), prioritises black persons with disabilities, inclusive of black women with disabilities, over white counterparts in acknowledgement of the slow pace of transformation since the original Act was passed.

(c) Processes at the national, provincial and local levels to consult and include representative organisations of women and girls with disabilities in decision-making processes concerning matters that directly affect them.

31. In addition to Par 2 (b), standardisation of norms for inclusion of gender and child specific dimensions in consultation and decision-making processes will improve once the National Framework for Self-Representation is approved during 2018.

5. In line with Sustainable Development Goal 5.2, on the elimination all forms of violence against women and girls with disabilities in the public and private spheres, including trafficking and sexual and other forms of exploitation, please:

(a) Provide data and information on gender-based violence against women and girls with disabilities and any programmes such as accessible community-based services for women with disabilities who have experienced gender-based violence, designed to protect and support women and girls with disabilities, particularly women and girls with psychosocial and/or intellectual disabilities against all forms of violence;

32. There is currently a lack of disaggregated data in this regard.

33. In addition to Par 4 (a), the Gender Based Violence Command Call Centre could initially only be accessed via the toll-free number or by sending a USSD (please call me). To strengthen access to Deaf persons, and Deaf women and children in particular, the following was added:

- A Skype functionality, allowing for video calling, has been added, which enables the Deaf community to communicate and lodge cases of Gender Based Violence making use of sign language;
- An SMS functionality has also been added for those who are unable to communicate in sign language or who are more comfortable using text to communicate;
- A GBV Website has been developed (www.gbv.org.z(a) for those who wish to contact the centre through the GBV website;
- Further enhancements that will assist persons with different types of disabilities other than hearing impairment will be rolled gradually to ensure that all other disabilities are covered by the Command Centre;
- In addition to the above, the Vodacom Foundation, in partnership with government, has installed computers with Skype accessibility at various Deaf Schools in two provinces to give direct access to the Call Centre.

34. The South African Police Service has put measures in place to generate disability disaggregated statistics and data going forward. These measures include enhancing the system capturing data on victims and offenders.

(b) Describe the composition of the Commission on Gender Equality (CGE) and inform on steps taken to adopt laws on combating violence against women and girls with disabilities that includes a disability perspective in the definition of violence and addresses the specific barriers faced by women and girls with disabilities in gaining access to justice, particularly for women and girls with psychosocial and/or intellectual disabilities.

35. The Commission on Gender Equality Act, 1996 (Act No.39 of 1996) does not prescribe representation with regards composition, but merely provides for a Chairperson and no fewer than 7 and no more than 11 members, of which a minimum of 2 and a maximum of 7, are full-time members. Practice has however been that since its establishment, the Commission has always had either a full-time or part-time Commissioner with a disability.

36. The remainder of this question is responded to under Article 13.

Children with disabilities (art. 7)

6. Please provide information about:

(a) Measures taken to ensure that the opinions, voices, and views of all children with disabilities are given due weight in accordance with their age and maturity, on the decision-making processes that affect them, including at home and in judicial proceedings;

37. There are currently 151 permanent qualified intermediaries who have been appointed across the country to assist children and persons with a mental age of less than 18 years old to give testimony in court. In camera facilities are also available to persons who require this service.

38. Section 38 of the SIAS 2014, places children with disabilities as an integral component of determination of support at school level, and states, among others, that:

"(1) Wherever possible, learners themselves should be involved in assessing their progression. Learners' own perceptions of themselves and their learning are crucial when identifying the need for support;

(2) The learning needs, social relationships and emotional growth of learners need to be taken into account when decisions are made about the site where they are to receive additional support. Such decisions cannot be made without consulting the learners themselves;

(3) Consent should always be obtained from older learners who are being assessed and confidentiality should be adhered to."

(b) Measures adopted to protect children with disabilities, especially autistic children and children with psychosocial and/or intellectual disabilities, from exclusion, violence, abuse, corporal punishment, neglect and inequality, by teachers and peers, including use of derogatory language on students with disabilities in transport systems, in poor and in rural areas.

39. Corporal punishment is outlawed in South Africa.

40. Protecting children with disabilities from exclusion, violence, abuse, neglect and equality requires that these children have equitable access to services and opportunities. Increasing access to early childhood development and services for children with disabilities has been prioritised through the approval of the national Policy on Early Childhood Development, which advocates for disability inclusive early childhood development services and opportunities.

41. In order to prevent and reduce the risk of sexual violence against children in public schools, all teachers and all officials working with children are required to be vetted for criminal records before being appointed as public servants.

42. The National School Safety Framework has been implemented at all special schools in the country.

43. The National Learner Transport Policy (2015) prioritises access for learners with disabilities, and advocates for vehicles transporting learners to adhere to the requirements and principles of universal design, especially those transporting learners with disabilities.

44. The representation of children with disabilities in the annual Children's Parliament and effective consultations undertaken with children with disabilities, through their representative organisations on all matters, including particularly in education opportunities for children with disabilities.

45. In addition to the Initial Country Report and Par 2 ((b) above, children with disabilities is a designated group participating in the annual Mandela's Children's Parliament.

Awareness-raising (art. 8)

7. Please inform the Committee about:

(a) The effectiveness of awareness-raising campaigns concerning the rights of persons with disabilities carried out by the government and how inclusive these campaigns are of persons with disabilities and their representative organisations, especially in rural communities;

46. There is currently no coherent sustained national targeted awareness-raising strategy that measures impact of awareness-raising campaigns. South Africa is in the process of developing a national framework to coordinate, standardise and measure impact of disability addressing this weakness.

47. It is culture in South Africa that any disability rights awareness campaign be inclusive of persons with disabilities and their representative organisations, inclusive of community radio stations.

(b) Measures to prevent incarceration of persons with disabilities in rural communities based on negative attitudes, myths and superstitions about disability;

48. Arbitrary incarceration by the state of persons with disabilities in rural communities based on negative attitudes, myths and superstitions about disability is outlawed.

49. When this does happen in the context of families hiding children with disabilities or locking them in back rooms, social welfare services intervene within the ambit of the Children's Act, 2005 (Act No. 38 of 2005).

50. When reports are received of persons with psychosocial disabilities being incarcerated by traditional healers for short periods of time during acute incidents of mania, health authorities intervene within the ambit of the Mental Health Care Act, 2002 (Act No. 17 of 2002).

(c) Measures adopted to combat stereotypes, prejudices and harmful practices relating to persons with disabilities in all aspects of life, including measures adopted by government to integrate disability mainstreaming and human rights education into the school curriculum;

51. As indicated in the Initial Country Report, campaigns currently focus around specific calendar days, months or events, with messages focusing on the rights of persons with disabilities also inter-woven into national days of remembrance. An example is the Keynote Address by the Deputy President of South Africa at the 2018 National Human Rights Day Commemoration, when he said:

> *"Human rights can only thrive where there is freedom, where communities are overcoming discrimination. They thrive when we work together to fight the stigmatisation of people living with HIV. They thrive in conditions where people*

living with mental illness are supported and their humanity affirmed. Not where they are shamed, starved, neglected, sexually abused, and beaten.

President Mandela taught us that, 'For to be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others.'

Within the spirit of the Sustainable Development Goals that We Leave No One Behind, I call on South Africans that we walk the extra mile in upholding the rights of persons with disabilities as equal citizens and residents of South Africa. Our country is emerging from a painful period in which 144 persons with psychosocial disabilities perished because we did not do enough as government to uphold their rights to self-representation, to protection from harm, to access to quality care. The past few years have regrettably also seen the emergence of killings of children and adults with albinism and of desecration of their bodies. Two years ago we lost the lives of three Deaf children when the boarding facility they were supposed to be safe in, burnt down due to insufficient disability inclusive emergency measures.

As we celebrate Human Rights Day today, as the world celebrates World Down Syndrome Day today, let us individually and collectively, speak out and act with more urgency, in solidarity, when we witness abuses and human rights violations against people with disabilities."

52. The country is currently developing inclusive education and disability mainstreaming modules in partnership with the British Council for teacher training courses offered at universities around the country. The modules have been completed and are ready to go into piloting at selected universities. This will ensure that educators are equipped with context and skills to approach the inclusion of learners with disabilities in the classroom with understanding and innovation.

(d) The current status of the Prevention and Combating of Hate Crimes and Hate Speech, and its applicability concerning the protection of persons with albinism.

53. The Prevention and Combating of Hate Crimes and Hate Speech Bill, inclusive of clauses focusing on preventing and combating hate crimes and speech against persons with albinism (as well as colour and race), and also persons with disabilities, was tabled in Parliament in April 2018, and will now be subjected to consideration by a Parliamentary Committee, inclusive of convening public consultative processes.

8. Please inform to what extent the media, particularly the electronic and print media contributes to raising awareness about the rights and dignity of persons with disabilities and their capabilities and contribution to society.

54. The national broadcaster launched a disability rights platform in November 2016. The SABC Disability 360 Campaign aims to empower persons with disabilities by providing on-going disability related content on-air, online and on the ground (events) through SABC various platforms, which provides the sector with information about job opportunities, training opportunities and pertinent disability content, in all 11 official languages. The Disability 360 Campaign further aims at creating an online "community" where persons with disabilities can engage and access any disability related Information.

55. The campaign ensured disability content to a total of 10,102 minutes (168 hours) of across the radio stations run by the South African Broadcaster between the period January 2017 and March 2018, and 7,427 minutes (123 hours) of podcast disability content.

Accessibility (art. 9)

9. Please provide information on:

(a) Any strategic comprehensive policy on accessibility and the inclusion of persons with disabilities, through their representative organisations in such a policy, as well as resources allocated to ensure access to buildings, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces, touristic places, both in rural and urban areas, including accessibility to information and communication technologies;

56. There are National Guidelines (norms and standards) and resources available for new health facilities to ensure that all new facilities are accessible to persons with disabilities. Resources have also been allocated over the past 5 years to retrofit existing medical facilities.

57. A National Framework on Universal Access and Design is currently before Cabinet for consideration as an outflow of Pillar 1 of the White Paper on the Rights of Persons with Disabilities. Representative organisations of persons with disabilities, as well as universal design experts with disabilities, constituted a core of the Framework development and drafting team.

58. The National Policy for Learner Transport of 2014 provides for all scholar transport to be universally accessible and section 8 prioritises learners with disabilities.

59. Measures taken over the past 5 years to create an enabling and accessible transport environment include:

- Gazetting minimum requirements for the preparation of integrated transport plans in terms of section 8 (1) (q), (r) and (s) and section 36 (1) and (2) of the National Land Transport Act, 2009 (Act No. 5 of 2009);
- Cabinet approval of the National Transport Master Plan 2050, which incorporates a requirement that all public transport must be universally accessible;
- The publication of a new standard on pedestrian crossings (NTR1), which are being implemented in Integrated Public Transport Network (IPTN) pilot sites in thirteen (13) municipalities, with varying degrees of success;
- Work has commenced on the development of a suite of universal design standards for the transport travel chain. These are now being formalised in the development of national technical requirements, which will become regulation over time.

60. The Universal Accessibility in Tourism Declaration was signed and adopted in 2015.

61. The Department of Tourism in partnership with The National Council for Persons with Physical Disabilities in South Africa (NCPPDSA) developed the Awareness and Training Manual for Universal Accessibility. Training is currently being rolled out to Provincial Parks.

62. Pillar 4 on Destination Management in the National Tourism Sector Strategy (NTSS) 2016–2026 provides specifically for the expansion of "universal access within the value chain starting with major attractions".

63. All National Parks have been upgraded and are universally accessible in terms of: UA friendly ablution facilities, wheelchair friendly accommodation, wheelchair ramps, accessible restaurants and reception areas.

(b) The current status of the Sector Strategy for Persons with Disabilities on accessibility to information and communication technology;

64. The Information & Communications Technology (ICT) Sector Strategy for Persons with Disabilities has been finalised, and gave way for a systematic approach to make the ICT environment more inclusive and universally accessible to persons with disabilities, inclusive of putting consultative platforms in place and addressing the legal and policy environment. Specific measures taken during the reporting period have included:

- All statutes impacting on the ICT environment are currently under review to determine whether it is in line with the WPRPD to ensure that persons with disabilities have equal access to e-Government Services. Broadcasting regulations, which incorporate universal design and access principles, have been published, and consumer protection has been strengthened;
- A Disability & ICT Chamber has been established as a sub-structure of the National ICT Forum, with significant participation from disability sector organisations. Chamber priorities in their 2 year work programme include:
    - Assistive technology (mainstreaming), including hardware and software and low and high technology;
    - Accessible websites (private and publi(c), including issues of taxation (e-filing); online banking and ATMs and e-documentation;
    - Working with the South African Bureau of Standards on setting standards;
- Reasonable accommodation support is receiving attention, including conducting an assessment for ICT related issues in the public sector;
- Work has been done in collaboration with the education sector on improving e-learning access (e-books and accessible text books);
- A process has been put in place to work towards providing universal access to emergency services ICT platforms;
- The issue of reducing import duties for assistive technology to bring down the cost is being addressed by the Chamber on the Economics of ICT;
- The Broad-Based Black Economic Empowerment ICT Council has been capacitated to address beneficiation and participation by persons with disabilities;
- The Chamber has worked with the South African Revenue Services to create online access for purposes of confidential income tax e-filing by persons who use screen-readers;
- As part of the Universal Service and Access Obligations (USAO) initiative, a specific focus on disability inclusion in multi-media centre has been developed since the last report for TVET, full-service schools, special schools and universities.

'c) Progress made on implementing accessibility standards in schools, in particular the implementation and outcomes of the "National Policy for an Equitable Provision of an Enabling School Physical Teaching and Learning Environment", 2010;

65. Universally designed standards have been incorporated into the proto-type design for primary and secondary schools.

(d) Measures to enforce the National Building Regulations and Building Standards Act and existing sanctions for lack of compliance with accessibility standards.

66. Measures taken towards accelerating 100% compliance with the Building Regulations Code 0400 Part S for all buildings owned and/or leased by the national Department of Public Works, included:

- All new State-owned buildings are designed to be accessible to persons with disabilities;
- Accessibility requirements are now included in the tender specification for the procurement of leased accommodation;
- Continued implementation of the Accessibility Programme with the aim of making state-owned buildings (under the custodianship of National Government) accessible to persons with disabilities;
- Accessibility measures are also implemented in various projects that are funded under user departments' capital budgets;

- A training programme on universal design and access for all national and provincial infrastructure staff of the social development sector was conducted in 2016, and the Western Cape Provincial Government facilitated SANS 10400 Part S training for all its public works employees involved with infrastructure development;
- The Transformation Agenda that was launched by the Council for the Built Environment in 2017, recommits built environment professionals to implement existing legislation, inclusive of Part S Code 10400 which deals with disability access.

67. A review of the Building Standards Act is underway with the purpose to remove weaknesses in enforcement environment and strengthen sanctions.

Right to life (art. 10)

10. Please provide information about measures to prevent harmful practices and attacks against the personal integrity and life of persons with albinism and investigate cases where persons with disabilities have been assaulted, including through kidnappings, mutilation and killings.

68. The South African Government funds the Albinism Society of South Africa to strengthen its organisational capacity as well as awareness programmes on the rights of persons with albinism, in particular in settings that are more traditional.

69. Government is currently institutionalising inclusion of the rights of persons with albinism, with a particular on addressing harmful cultural beliefs and traditions in all social cohesion and moral regeneration focused campaigns.

70. Campaigns on the rights of persons with albinism are conducted on an ongoing basis in partnership with the Albinism Society of South Africa and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the South African Human Rights Commission (SAHR(C) and institutions of traditional leaders and healers, as well as the religious community in provinces where threats have been picked up or crimes have been committed against persons with albinism.

71. South Africa is currently leading a campaign with the Southern Africa Development Community (SAD(C) with the aim of adopting a SADC Protocol on the Rights of Persons with Albinism.

Situations of risks and humanitarian emergencies (art. 11)

11. Please provide information on measures taken to consult with and include persons with disabilities, especially persons with psychosocial and/or intellectual disabilities and persons with disabilities living in rural areas, including refugees, in the implementation of the Disaster Management Act.

72. Processes are currently underway in consultation with organisations of Deaf persons to ensure that all emergency services are accessible to persons who are unable to utilise the current emergency and disaster management call centres.

73. One of the major national mobile operators in the country recently launched its Deaf Access Emergency Services platform, and has put measures in place to ensure that the current design is upgraded on an ongoing basis based on user feedback.

12. Please inform on whether the State party considers adopting a disaster reduction strategy that provides for accessibility and inclusion of persons with disabilities, in all situations of risk, in line with the Sendai Framework for Disaster Risk Reduction 2015–2030.

74. South Africa is committed to meet its obligation to implement the objectives of Sendai Framework as adopted at the Global Framework held in Cancun, Mexico in 2017, by ensuring that the persons with disabilities are actively involved and participate not only as attendees, but also in providing meaningful inputs that are implemented across government.

Equal recognition before the law (art. 12)

13. Please provide information about:

(a) Measures to review and reform Chapter VIII of the Mental Health Care Act, 2002 that provides for curatorship of persons with "mental disabilities" and/or persons with "severe or profound mental disabilities";

75. It is envisaged that Chapter 8 of the Mental Health Care Act 2002 (Act No. 17 of 2002) will be repealed when legislation on supported decision-making is passed (refer to Par 13 ((c), as this will address the need for support to persons with disabilities in exercising their legal capacity in a manner which recognises constitutional principles and is in accordance with South Africa's international obligations.

(b) Measures to eliminate all forms of discriminatory restrictions and practices that impinge on the legal capacity of persons with disabilities, including in relation to marriage, making a will and contracts, voting and making decisions that affect their lives, especially affecting persons with psychosocial and/or intellectual disabilities;

76. The Electoral Laws Amendment Bill, currently being processed for Cabinet consideration, proposes that Section 8 (2) (c) and (d) of the Electoral Act, 1998 (Act No. 73 of 1998), be repealed.

(c) Measures in place to facilitate the shift from substituted decision-making to supported decision making in line with the Committee's general comment no. 1 (2014) on article 12: Equal Recognition before the Law; including measures to expedite the completion of the South African Law Reform Commission's proposed bill on "supported decision-making";

77. The South African Law Reform Commission has finalised its Report on Assisted-Decision Making. The Report is currently under Executive consideration for a decision with regards alignment with the CRPD, inclusive of the Committee's general comment, and subsequent legal reform that must be undertaken.

(d) Existing remedies available for persons with disabilities, which oppose guardianship decisions. Please also indicate how many persons with disabilities have regained legal capacity since the ratification of the Convention.

78. No statistics are available in this regard.

Access to justice (art. 13)

14. Please provide information on:

(a) Measures taken to provide persons with disabilities in all areas of law and at all levels of judicial procedures, with information in accessible formats, such as Braille, Easy Read and Sign language interpretation and in different dialects as well as to ensure physical accessibility to courts, including all types of "special" and "periodic" courts;

79. Measures taken to create awareness on the right of persons with disabilities to access to justice included:

- The Strategy on Provision of Police Services to Persons with Disabilities was approved in 2018;
- The South African Police Services (SAPS) Directive NI on Victim Empowerment 2/2012 provides for the provision of South African Sign Language interpreters, among others, to improve access for Deaf victims/perpetrators. SAPS has embarked on a work study process to address access challenges to SASL interpreter services;
- Access to information on SAPS services was furthermore improved through the publication of information pamphlets and booklets on child justice; older persons;

children's rights; victim empowerment; domestic violence and sexual offences in Braille in October;

- Public Education Materials on access to courts were converted into accessible formats, inclusive of braille, large print and audio in response to Article 9 of the UNCRPD;
- Public awareness campaigns on the promotion of the usage of Equality Courts, in collaboration with the SAHRC, the Commission on Gender Equality and Legal Aid South Africa were held in 2016 and 2017. Persons with disabilities and NGO's in the disability sector were invited to participate in these campaigns.

80. Physical access in a total of four hundred and eighty five (485) courts have been completed in Phase 1, focusing on the provision of accessible ground level entrances, dedicated parking spaces, ramps, toilets, & lifts with voice output. Phase 2 will focus on universal access and design in all court buildings.

(b) The current status of the rules concerning children with disabilities, including children with intellectual and/or psychosocial disabilities in court proceedings, as provided for in the Children's Act 2005, and progress made in relation to access to justice for children with disabilities in Children's Court;

81. As per the Initial Country Report, under Article 13 paragraph 128.

(c) Measures taken in relation to implementing procedural accommodations, gender and age appropriate accommodation in judicial proceedings, especially for black women and girls with disabilities, as well as for deaf, deafblind and hard of hearing persons;

82. One hundred and fifty-one permanent intermediaries has been appointed to assist children and persons who are under the mental age of 18 to give testimony in court. Control measures have been put in place through the National Operations Centre to ensure that appointed intermediaries are suitably qualified.

83. Other support measures include in-camera facilities for children with disabilities who experience trauma or high levels of stress when testifying, as well as Court Preparation Services for child victims and witnesses with disabilities, where the victims and witnesses are prepared for court to eliminate secondary victimisation.

(d) Measures taken to ensure access to justice, prompt prosecutions and convictions of perpetrators of crimes against persons with albinism, in particular women and children victims;

84. There are currently no specific measures to expedite prosecutions and convictions.

(e) Information about assessments carried out concerning the training process of the South African Police Services (SAPS) in relation to the rights of persons with disabilities;

85. A formal assessment of the impact of implementation of the SAPS Disability Learning Programme will only be conducted once the programme has been implemented over a number of years.

(f) The availability of training to enable persons with disabilities to participate in the judicial system as lawyers, judges or law enforcement personnel.

86. Persons with disabilities have equal access to training opportunities as lawyers, judges and law enforcement personnel.

Liberty and security of the person (art. 14)

15. Please provide information about:

(a) Measures to review and repeal the provisions of the Mental Health Care Act 2002 allowing for involuntary "mental health care" based on impairment;

87. Section 32 of the Mental Health Care Act, 2002 (Act No. 17 of 2002) prescribes the grounds that a mental health care user must be provided with care, treatment and rehabilitation services without his or her consent at a health establishment on an outpatient or inpatient basis. The Act provides sufficient safeguards for involuntary care, treatment and rehabilitation.

88. The Health Ombud Report following the Life Esidimeni Tragedy makes two recommendations with regards the Mental Health Care Act (MHCA) 2002:

- "The National Minister of Health should request the SAHRC to undertake a systematic and systemic review of human rights compliance and possible violations nationally related to Mental Health"; and
- "There is an urgent need to review the NHA 2003 and the MCHA 2002 to harmonise and bring alignment to different spheres of government. Centralisation of certain functions and powers of the MHCA must revert back to the National Health Minister".

89. The South African Human Rights Commission has just concluded public hearings on mental health and human rights, and it is envisaged that the findings of this review will feed into the review of the Mental Health Care Act 2002 to strengthen alignment with the Convention.

(b) Measures to review and amend the Older Persons Act 2006, which provides for institutionalization of older persons with disabilities on the basis of impairment in cases when it is considered that their "mental condition" renders him or her "incapable" of giving consent;

90. The Older Persons Act, 2006 (Act No. 13 of 2006) will be reviewed following amendment of the Mental Health Care Act, 2002 (Act No. 17 of 2002).

(c) Disaggregated data on the number of persons with disabilities subjected to medical interventions under substitute decision-making regimes, without their free and informed consent;

91. In terms of mental health involuntary admissions, in 2014 there were 24,032 admissions, in 2015 there were 28,326 admissions, in 2016 there were 33,057 and in 2017 there were 43,504 admissions.

(d) Measures to repeal legislation that allows for institutionalization of older persons with disabilities on the basis of third party requirements.

92. The Older Persons Act, 2006 (Act No. 13 of 2006) will be reviewed following amendment of the Mental Health Care Act, 2002 (Act No. 17 of 2002).

Freedom from torture or cruel, inhuman or degrading treatment or punishment (art. 15)

16. Please provide information about:

(a) Measures, in law and practice, to ensure that persons with disabilities, including children with psychosocial and/or intellectual disabilities, are not subjected to torture or to cruel, inhuman or degrading treatment or punishment, including corporal punishment;

93. The Prevention of Combating and Torture of Persons Act, No. 13 of 2013 give effect to the Republic's obligations in terms of the United Nations Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, requires that a victim's mental or physical health as a factor to be considered in sentencing.

94. The Policy on Residential Facilities, Norms and Standards and Registration Guidelines provide administrative tools, procedures and steps to be taken to report abuse and violation of persons with disabilities in these facilities.

95. Corporal punishment of children, inclusive of children with disabilities, is outlawed in South Africa.

(b) The monitoring by the Judiciary of torture in mental health, drug rehabilitation centres and all other institutions, including stimulation centres, special schools hostels and the residential care of older persons and measures taken to ensure that Mental Health Review Boards work on the basis of a human rights approach to disability to deal with any instances of violence and/or ill treatment in mental health facilities;

96. The Judiciary currently does not play any role in monitoring torture in the facilities mentioned above.

97. The responsibilities of the Mental Health Review Boards are specified in Chapter IV of the Mental Health Care Act, 2002 (Act No. 17 of 2002). Their working relationship with the Judiciary is prescribed in the legislation. The Health Ombud Report on the Life Esidimeni Tragedy found that there was minimal involvement of the Mental Health Review Board (MHRB) and that the MHRB's independence was questionable. The SAHRC enquiry referred to in Par 15 (a) also covered an assessment of MHRB.

(c) Measures taken to implement the recommendations of the Health Ombudsman in relation to the Esidimeni tragedy that resulted in the death of more than 144 persons with psychosocial disabilities and ensure that criminal charges are brought against the perpetrators;

98. The National Department of Health, in collaboration with Gauteng Province, is in the process of implementing all the recommendations of the Health Ombud as well as the Arbitration Award. Progress on the implementation of the 18 recommendations was reported to the Health Ombud as was required in the form of the report dated 26 May 2017:

- Former Life Esidimeni Users were relocated from unlawful NGOs within 45 days from the release of the report to appropriate health establishments in Gauteng Province as recommended by the Health Ombud;
- The National Minister of Health requested the South African Human Rights Commission (in a letter dated 9 February 2017), in line with recommendation 9 of the Health Ombud report, to undertake a systematic and systemic review of human rights compliance and possible violations nationally relate to mental health;
- The Life Esidimeni Arbitration process was established in line with recommendation 17 of the Health Ombudperson's Report. The Arbitration agreement was entered into by parties on 8 September 2017. The Arbitration proceedings started on 09 October 2017 and ended on 09 February 2018. The Arbitration award was made on 19 March 2018;
- General Regulations, Norms and Standards Regulations Applicable to Different Categories of Health Establishments were published in the Government Gazette No. 41419 on 02 February 2018;
- The Policy Guidelines for the Licensing of Residential and/or Day Care Facilities for Persons with Mental Illness and/or Severe or Profound Intellectual Disability were published in Government Gazette No. 41498 on 16 March 2018.

(d) Complaint procedures and remedies accessible for persons with disabilities in institutions and disaggregated data on investigations, prosecutions and disciplinary sanctions against perpetrators of torture and ill treatment;

99. Persons with disabilities in institutions can lodge a complaint with the South African Human Rights Commission, the Presidential Hotline, the Mental Health Review Board, or

open a criminal case with the South African Police Service when they believe they are subjected to torture and ill treatment.

(e) Whether the State Party intends to ratify the Optional Protocol to the Convention against Torture and progress made in the establishment of a national preventive mechanism with the mandate to monitor places of detention, including where persons with disabilities are deprived of their liberty.

100. The Optional Protocol on the Convention against Torture will be ratified by South Africa as soon as discussions between the Executive and the South African Human Rights Commission with regards designation and capacitation of the National Preventative Mechanism have been concluded.

Freedom from exploitation, violence and abuse (art. 16)

17. Please provide information about:

(a) Measures to prevent and protect persons with disabilities, especially women, children and persons with psychosocial and/or intellectual disabilities, from any form of exploitation, violence and abuse, including sexual violence and child pornography in all settings, including at home and in institutions and in rural and urban areas;

101. The South African Government has adopted an integrated approach to the management of violence against women and children, inclusive of children and women with disabilities. An Inter-Ministerial Committee on violence against women to investigate the root causes and to develop national plans to prevent and respond to violence against women in a coordinated manner, has been established. Through this work various initiatives have been implemented, including the 24-hour Gender-Based Violence Command Centre (GBVC(C), dedicated at providing support and counselling to victims of gender based violence. As reported earlier, a Deaf access facility is now available within the GBV Command Centre.

102. The Ministerial Task Team on the Adjudication of Sexual Offences Matters was established as a measure to implement the Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007 (Act No. 32 of 2007) through the investigation of the viability of re-establishing the Sexual Offences Courts, which was officially handed to the Minister of Justice in August 2013. The Minister of Justice and Correctional Services has been given the authority to designate a court as a Sexual Offences Court and for Government to develop regulations that will guide resourcing and management of these courts.

(b) Access of women and girls with disabilities to the Thuthuzela Care Centres providing support services for survivors of sexual offences and domestic violence, and programmes to provide psychosocial redress and legal aid for women with disabilities who are exposed to gender-based violence against women;

103. The Thuthuzela Care Centres draw on their networks in public sector such as South African Police Services and Department of Social Development to ensure reasonable accommodation needs are addressed in facilitating access to services.

(c) Measures taken to train police and prison officials, members of the judiciary, social workers, health professionals and other interlocutors working with those experiencing violence to heighten their awareness about the rights of persons with disabilities. Please also describe measures to engage with persons with disabilities, especially persons with psychosocial and/or intellectual disabilities and mental health care users;

104. The SAPS Disability Learning Programme was finalised and piloted in 2016 to capacitate police officers to interact with complainants, victims and offenders with disabilities. Ninety-one (91) sensitisation workshops, attended by 2,136 SAPS members, were conducted during the 2015/2016 period, and 102 awareness events were hosted nationwide with 6,625 attendees in total.

105. More than one thousand (1000) judicial officials participated in twenty (20) disability sensitisation workshops across all regions during 2016 to respond to Articles 13.2 and 8 of the UNCRPD.

106. Training to capacitate SAPS members on interpretation and implementation of Standing Order 291 of the Mental Health Care Act, which regulates the manner in which members must approach and manage persons with psychosocial disabilities, continued during the reporting period.

107. The absence of persons with disabilities and their representative organisations in the design and implementation of training courses has been identified as a weakness, and current practices will be reviewed to strengthen alignment with the National Framework on Self-Representation by Persons with Disabilities, once the framework has been approved by Cabinet.

(d) The current status of the Prevention and Combating of Trafficking in Persons Bill, and the inclusion of disability as a factor of vulnerability concerning trafficking in persons, and information concerning the impact of measures to support "indigent" persons with disabilities in areas such as accessibility, living independently and being included in the community and fight against poverty.

108. South Africa passed the Prevention and Combating of Trafficking in Persons Act, 2013 (Act No.7 of 2013) in 2013.

109. Section 3 of the directives in terms of Section 44 (1) (a) of the Act provides for a victim-centered approach in dealing with vulnerable groups, inclusive of persons with disabilities.

Integrity of the person (Art. 17)

18. Please provide information about measures in place to protect the physical and mental integrity of persons with disabilities, especially persons with psychosocial and/or intellectual disabilities regarding medical or other treatment without the prior, free and informed consent of the person, including the use of menstrual suppressant drugs, forced contraception and forced sterilization.

110. In terms of the National Health Act, professional ethics and the training of health professionals, informed consent is required. The only exception under the law is with regard to persons incapable of giving informed consent.

Liberty of movement and nationality (art. 18)

19. Please provide information about measures taken to ensure that migrants, refugees and asylum seekers with disabilities have access to identity documents and are provided with support and access to education and health.

111. Migrants, refugees and asylum seekers with disabilities have the same entitlements to support and access to education and health services as persons without disabilities.

Living independently and being included in the community (Art. 19)

20. Please provide information about:

(a) Measures that have been put in place to adopt a National Framework for the closure of institutions and residential care facilities where persons with disability reside and to recognize the right to living independently and being included in the community, including the right to choose freely where and with whom they live, as a subjective right;

112. South Africa supports the principle of deinstitutionalisation as espoused in the Convention and acknowledges the need for a well-defined national strategic and legislative framework on independent living support services to persons with disabilities.

113. Pillar 3 of the WPRPD identifies fifteen (15) indicators across five (5) domains to support the right to live independently in the community, i.e.:

- Building socially cohesive communities and neighbourhoods;
- Building and supporting families;
- Accessible human settlements/neighbourhoods;
- Access to community-based services supporting independent living; and
- Protection during situations of risk and disaster.

114. Good practices and implemented projects of independent living are currently being explored. Residential facilities and supported living facilities that promote independent living are currently part-funded by the State.

(b) Disaggregated information on the number of persons with disabilities living in institutions, including mental health care settings, aged-care facilities and drug rehabilitation facilities;

115. The total number of beds in public sector psychiatric hospitals is currently 10,412.

116. There are 19,835 persons with disabilities in residential facilities.

117. There are currently no disability disaggregated statistics for old-age facilities and drug rehabilitation facilities.

(c) Measures to redress persons with disabilities affected by the Esidimeni tragedy, in particular compensations, psychosocial assistance and rehabilitation of survivors;

118. The Health Ombud's Report into the Life Esidimeni tragedy recommended that an Alternative Dispute Resolution process be followed.

119. The Life Esidimeni Alternate Dispute Resolution (ADR) hearings, under the stewardship of retired Deputy Chief Justice Dikgang Moseneke, were held between October 2017 and February 2018 for a total of 45 days. A total of 60 witnesses were called, inclusive of 19 government officials, 31 family members of both deceased and surviving victims, 6 experts and 4 Not-for-Profit institutions.

120. Justice Moseneke made a binding reward on 19 March 2018 due to the death caused of 144 healthcare users and the pain and suffering and torture of 1 480 mental healthcare users who survived and their families. The government of the Republic of South Africa was ordered to, with respect the 135 claimants who were part of the ADR hearings:

- Pay ZAR 20,000 (USD 1,622)[1] to families of 67 deceased in respect of funeral expenses no later than 19 June 2018;
- Pay ZAR180,000 (USD 14,600) to 67 families of deceased as well as 68 survivors in respect of general damages for shock and psychological trauma no later than 19 June 2018;
- Pay ZAR1-million (USD 81,115) to 67 families of deceased as well as 68 survivors as appropriate relief and compensation for the government's unjustifiable and reckless breaches of the Constitution of the Republic of South Africa (Section 1 A and C and D of Section 7, Section 10, Section 12 (1) D, Section 12 (1) E, Section 27 (1) A, Section 27 (1) B, Section 195 (1) A, B, D, E, F and G), multiple contraventions of the National Health Act 61 of 2003 as well as the Mental Health Act 17 of 2002 no later than 19 June 2018;
- Within 30 days, make available the services of qualified mental health care professionals who must access the counselling and support needs of each of the 135 claimants and up to three members of each claimant's family. Those who require support must be provided with such services immediately after the needs assessment.

[1] Against a USD1 to ZAR 12.3 exchange rate.

except if any of the claimants or their family in writing decline the counselling and support;

- A remembrance monument be erected within 12 months;
- A recovery plan must be developed within 6 months and implemented.

(d) Measures, including public policies, strategies and programmes as well as resources allocated to establish and develop community support services for persons with disabilities, including personal assistance, at the national, provincial and local level, including in rural areas;

121. Pillar 3 of the WPRPD directs that a sustainable fully subsidised community-based system for personal assistance to support independent living within the community for persons with disabilities be developed.

122. Work has commenced on costing the minimum norms and standards for community-based residential care facilities.

123. Government commissioned a pilot study into Elements of the Financial and Economic Costs of Disability to Households in South Africa in partnership with the UN Partnership on the Rights of Persons with Disabilities in 2014. Phase 1 of the pilot study was published in 2015. Work is currently underway to investigate options to reduce personal assistance related costs that rights-holders incur within current social assistance entitlements.

(e) Measures adopted to ensure that mainstream community services and facilities, including housing, schools, parks, banks, and health facilities are accessible and available for persons with disabilities, irrespective of their impairment, age, and place of living.

124. The Framework and Strategy for Disability and Rehabilitation Services (2016) provides for access to general health services and rehabilitation services at all levels of care including in the community where people reside.

125. More than 60% of South Africans live in urban areas, and this figure is projected to increase to 71.3% and 80% by 2030 and 2050 respectively.

126. South Africa fully endorses the international guidelines on urban and territorial planning as articulated in the New Urban Agenda and will commence with the development of the Country Action Framework and monitoring mechanism, in which persons with disabilities will be included in the decision making forums.

127. The new Integrated Urban Development Framework (IUDF) was approved in 2016. The new Framework embeds the rights of persons with disabilities across all nine (9) policy levers.

128. The inclusion of universal access and design in the Comprehensive Integrated Transport Plan (CITP) released by the National Department of Transport in 2016 is an important milestone.

Personal mobility (art. 20)

21. Please indicate what measures are in place to support the personal mobility of persons with disabilities, especially children with disabilities, and measures adopted by the South African Disability Development Trust for providing mobility aids and appliances for persons with disabilities requiring them.

129. The South African Disability Development Trust is a Not-for-Profit organisation that no longer provides assistive devices.

130. Assistive device indicators were reintroduced as an integral domain in the District Health Information System (DHIS) in 2016. This will improve monitoring of provisioning, backlogs and quality of services as it relates to turnaround times. At this stage, the DHIS allows for tracking of wheelchair and hearing aid provisioning. The total number of

wheelchairs issued through the public health sector in the 2016/17 financial year was 24,336.

131. Cabinet, in acknowledging the current under-provisioning of assistive devices to children and adults with disabilities, and the detrimental impact this has on other socio-economic and human rights outcomes, directed in December 2017 that the Department of Health must develop a more responsive system to eradicate backlogs of assistive devices, expand the range of assistive devices to all persons with disabilities, and improve on turnaround times for issuing of assistive devices.

132. Indigent students with mobility disabilities enrolled at universities and Technical, Vocational Education and Training (TVET) Colleges are able to access mobility devices through the National Student Finance Assistance Scheme.

Freedom of expression and opinion and access to information (art. 21)

22. Please provide updated information on the development of a Braille production strategy and on progress in recognizing South African Sign Language as an official language in the State Party. Please also provide information on the processes followed by the State Party when procuring the services of sign language interpreters.

133. There has been no significant progress on the development of a Braille production strategy.

134. Both Houses of Parliament approved the recommendation by the Parliamentary Constitutional Review Committee that South African Sign Language be recognised as an official language, and the drafting of the amendment to the Constitution is currently under way.

135. Inconsistencies currently exist in the processes followed by the State Party when procuring the services of sign language interpreters. Guidance is provided by the National Coordinating Mechanism (Art 33) upon request. Extensive consultation has taken place with national Deaf organisations, and these organisations will participate in the drafting of minimum norms and standards for the procurement of sign language interpreters as an integral component of the development of National Guidelines for Disability-Inclusive Public Participation has been finalised in the current financial year.

23. Please provide information about measures undertaken to make information available in accessible formats for persons with disabilities such as Braille, Easy Read and sign language, including providing information and services in accessible and usable formats for persons with disabilities on the Internet.

136. In addition to the information provided in the Initial Country Report as well as Par 14 (a) of this Report, the principle is that all public information must be made available in a variety of accessible formats.

137. The WPRPD has for example been made available in print (also large print), audio and braille, and the South African Sign Language version has just been completed. A disability organisation was recently contracted to develop an easy read English version of the policy that will be translated into all official languages, inclusive of South African Sign Language. It is envisaged that a child-friendly version will be released towards the end of 2019.

138. The Disability Chamber of the National ICT Forum is currently working on norms and standards for websites against which audits will be conducted.

Respect for Privacy (art. 22)

24. Please provide information about measures adopted to ensure that service providers and any other person providing support to persons with disabilities are aware of and properly trained on the rights of persons with disabilities to private and family life.

139. There is currently no approved norms and standards or curriculum for the training of personals assistants in general.

140. Please also inform about measures to protect personal data and records of persons with disabilities from unlawful and arbitrary interference, including concerning judicial proceeding in which they take part.

141. The right to privacy is entrenched in South African law.

Respect for home and the family (art. 23)

25. Please provide information about:

(a) Strategies and programmes implemented to provide persons with disabilities, including those living in rural communities with accessible and age-appropriate information, reproductive and family planning education in accessible formats;

142. Brailled copies of the National Strategic Plan for HIV, TB and STIs were distributed to various communities.

(b) The progress made in the adoption and implementation of the strategy to provide children with disabilities with alternative care in the community and in family settings;

143. National guidelines for partial and full-time alternative care in community and family settings for children with disabilities are being piloted.

144. A pilot project to identify causal factors that cause gaps in service provisioning to children with disabilities at risk of compounded marginalisation, and the development of strategies to address these gaps, was undertaken. The outcomes of the pilot project are currently being embedded in the review, strengthening and expansion of the Orphans and Vulnerable Children Support Programme.

(c) Measures adopted to prevent separation of a child on the basis of disabilities of either the child or one or both of the parents.

145. The Children's Act requires that all actions pertaining to the child must be in the best interest of the child principle.

Education (art. 24)

26. Please provide information about:

(a) Measures adopted by the State Party in order to recognise the enforceable right to inclusive education and provide for inclusive and quality education for children and adults with disabilities, including deaf and hard of hearing persons at the national, provincial and local levels;

> *"Our goal as government is to ensure that by 2021, no children with disabilities will be out of school. They should all be able to attend their local neighbouring schools and receive the necessary support." (Former) Pres Jacob Zuma, 10 March 2016*

146. In addition to the information provided in the Initial Country Report, the following measures have been adopted over the past 5 years.

147. Measures put in place to improve access to quality basic education for all children with disabilities, include:

- The Minimum Norms and Standards for Public School Infrastructure (2013) integrates universal access and design principles for all new public school buildings;
- The draft Policy and Learning Programme for Children with Severe to Profound Intellectual Disability (CSPID) was finalised for piloting. The new policy gives effect to the Western Cape High Court Judgement of 2010. Introduction of the Conditional Grant for the implementation of the Policy and Learning Programme for CSPID to realise their right to basic education, commenced in April 2017. The introduction of the curriculum for learners with severe intellectual disability Grades

R-5 (22 subjects) is furthermore contributing towards improving transition from school to work for these learners;

- The implementation of the South African Sign Language (SASL) Curriculum and Assessment Policy Statement (CAPS) was approved as policy in July 2014 and a phased-in implementation commenced in January 2015 in Schools for the Deaf across all Provinces. This year will see the first cohort of grade 12 Deaf learners writing the SASL National Senior Certificate;
- Quarterly National Strategy on Learner Attainment (NSLA) reports enables the monitoring of implementation of the Inclusive Education Policy;
- Systems have also been strengthened to monitor the implementation of the Turnaround Strategy for Special Schools, as well as the Guidelines for Special Schools and Full-Service Schools aimed at strengthening of 'nclusive ethos, policies and practices;
- The Introduction of the Guidelines for Resourcing an Inclusive Education System is designed to support the realisation of the principles embodied in the SIAS Policy at three levels: human resource provisioning (including districts Guidelines), non-Personnel Non-Capital provisioning (NPNC) and provisioning of infrastructure and transport;
- Teachers and in all 81 districts were trained on the implementation of the Policy on Screening, Identification, Assessment and Support (SIAS, 2014), on Curriculum Differentiation and Accommodations and the Concessions Policy between 2015 and 2016; Educators have been provided with Braille literacy; have been have been enrolled in South African Sign Language classes; and have received training on autism and learning and teaching; as well as on inclusive education.

148. Measures put in place to improve access to quality post school education and training for all adults with disabilities, include:

- The Disability Framework for Post School Education and Training was approved in 2017;
- The DHET completed a survey to determine the levels and extent of reasonable accommodation support to learners with disabilities in TVET colleges. This information will assist in developing a plan for putting these measures in place;
- Earmarked funding has been set aside for infrastructure, assistive devices and interpreter services for Technical, Vocational Education and Training (TVET) Colleges for learners with disabilities from 2016;
- The National Student Finance Assistance Scheme Board approved an allocation of ZAR 76,623,000 (USD 6,214,355) for reasonable accommodation support for students with disabilities at public universities and public TVET colleges for the 2017 academic year.

(b) Measures adopted to ensure the right to be provided with reasonable accommodation in education, guidelines for schools and budget allocations in public schools to this end as well as measures to provide support to families of children with disabilities, and ensure development of teacher training programmes on inclusive education and methodologies;

149. Measures adopted to ensure the right to be provided with reasonable accommodation support in education, inclusive of guidelines for schools and budget allocations in public schools to this end, have been covered under Par 3 (c).

150. Measures adopted to ensure the development of teacher training programmes on inclusive education and methodologies include:

- Embedding inclusive education and methodologies in knowledge and practice standards;

- Embedding inclusive education and methodologies in set minimum requirements for teacher qualifications;
- A review of the Funza Lushaka Bursary Policy to prioritise the funding of students who want to specialise in the teaching of Inclusive Education, inclusive of specialising in the teaching of Visual Impairment (Braille), Deaf (Sign Language), Neurodevelopmental disabilities and other specialisations in the field of special needs education;
- The Teacher Education for Inclusive Teaching Project (TEfIT), a European Union-funded project, includes the development of a stand-alone module will ensure that new teacher graduates can implement inclusive pedagogies in their teaching, in order to address the learning needs of all learners.
- Three (3) universities are furthermore supported to develop as centres of specialisation:
    - The University of Pretoria is being supported to develop as a centre of specialisation for the education of learners with visual impairments;
    - WITS University is being supported to strengthen their centre of specialisation in Deaf Studies; and
    - The University of Johannesburg is being supported to develop as a centre of specialisation for learners with neuro-developmental disabilities.

(c) Number of cases of discrimination against children with disabilities in schools and about the measures taken to ensure the enrolment of children with disabilities currently out of school and that children with disabilities are treated with dignity and respect and are not denied admission into school on account of impairment.

151. As elaborated in the Initial Country Report, the South African Schools Act of 1996, indicates that all children between the ages of 7 and 15 are compelled to attend school.

152. Ensuring the enrolment of children with disabilities, who are currently out of school because of impairment, is a work in progress.

153. Discrimination against children with disabilities in schools are reported to the South African Human Rights Commission, and as agreed with the Commission, more information in this regard should be sourced directly from the Commission.

Health (art. 25)

27. Please provide information about:

(a) Accessibility of the physical environment of health facilities for persons with disabilities, including provision of information in accessible formats such as Braille, sign language and Easy Read for persons who are blind or visually impaired, deaf and hard of hearing and persons with psychosocial and/or intellectual disabilities;

154. The accreditation process for ideal clinics and National Health Insurance accredited hospitals include elements of physical accessibility such as signage, ramps, and accessible toilets.

155. A process is underway to establish the feasibility of a technology-based solution for communication between health workers and Deaf service users.

(b) Measures in place to provide persons with disabilities their rights to sexual and reproductive health and rights, including their right to free and informed consent on health matters, including HIV/AIDS;

156. The National Strategic Plan for HIV, TB and STI (2017–2022) provides for services related to these areas. As noted previously, the National Health Act provides for informed consent before treatment for all patients. In the revision of the Sexual and Reproductive

Health Policy, there will be specific messaging aimed at persons with disabilities, including translation of information into braille.

(c) **Measures taken to provide training to health professionals and support personnel in order to understand the human rights based approach to disability and avoid discriminatory and negative attitudes against persons with disabilities, particularly persons with psychosocial and/or intellectual disabilities, including an effective appeal and reporting mechanism in the health sector where client's rights have been infringed.**

157. In terms of mental health care, treatment and rehabilitation the following complaints procedures and remedies are available:

- Section 11 of the Mental Health Care Act prescribes that "every person, body, organization or health establishment providing care, treatment and rehabilitation services to mental health care users must take steps to ensure that users are protected from exploitation, abuse and any degrading treatment; users are not subjected to forced labour and care, treatment and rehabilitation services are not used as punishment or for the convenience of other people;
- A person witnessing any form of abuse against a mental health care user must report this fact to the law enforcement agencies;
- A mental health care user is entitled to a representative, including a legal representative when lodging an appeal;
- A mental health care user, spouse, next of kin, partner, associate, parent or guardian may appeal against decisions of the head of a health establishment to the Mental Health Review Board."

158. The establishment of the Office on Health Standards Compliance (OHSC) was created by the National Health Amendment Act of 2013 to protect and promote the health and safety of users of health services.

159. The Office of Health Ombud is an independent body established in terms of the National Health Amendment Act of 2013 and is located within the OHSC. The Office ensures that the healthcare users' complaints are heard, investigated and redressed in a fair, economical and expeditious manner.

Work and employment (art. 27)

(f) **In the light of the declining rate of employment of persons with disabilities in the public sector, please inform on measures taken to provide employment for persons with disabilities, especially for women with disabilities, including creating greater awareness of the rights of persons with disabilities in relation to work.**

160. All national and provincial government departments are required to report annually on progress made with implementation of the JobACCESS Strategic Framework for the Recruitment, Appointment and Retention of Persons with Disabilities Implementation Plan. Reports on departmental status are submitted to both Cabinet as well as Parliament for consideration and intervention.

161. Accounting officers from April 2018 are obliged to enter promotion of and adherence to disability equity targets into their annual performance agreements. A process is also underway to institutionalise consequence management where departments fail to meet targets through implementation of Section 16A of the Public Service Act, of 1994, which allows the Head of the Department to take appropriate disciplinary steps against an employee of the department who does not comply with a provision of this Act or a regulation.

29. Please provide information about measures in order to create employment for persons with psychosocial and/or intellectual disabilities, including affirmative action measures and vocational training for persons with disabilities, and in providing persons with disabilities with reasonable accommodation in the workplace, including sanctions against non-compliant entities or those who have deliberately failed to employ persons with disabilities.

162. Reasonable accommodation measures have been covered under Par 3 (c).

163. The Supported Employment Programme focuses on persons with psychosocial and intellectual disabilities. The programme introduced subsidies to standard salaries and it is striving to expand over the next 3 years to increase the number of participants from 1200 to 3000 persons with disabilities.

164. The focus for vocational training for persons with disabilities remains the learnership programme, which offers remunerated learnerships of on average 12 months to young persons with disabilities. The recent approval of the Disability Framework for Post School Education and Training will enhance consistency and access to reasonable accommodation support measures in this sector.

165. The amendment of the Employment Equity Act in 2016 has strengthened sanctions for non-compliance by designated employers. Such sanctions include legal recourse through the court system, as well as fines imposed by the Labour Court.

Adequate standard of living and social protection (art. 28)

30. Please provide information about:

(a) Measures taken to ensure that all persons with disabilities receive disability grants, in particular persons with disabilities living in poverty, families of children with disabilities, older persons with disabilities and persons with disabilities in rural areas, and persons with disabilities out-of-work. Please also indicate the level of accessible information and raise awareness among persons with disabilities about the existence and availability of these grants;

166. The social assistance measures reported on in the Initial Country Report remain in place, but with annual cost of living adjustments with regards the amounts of grants.

167. Coverage in terms of awareness about the types of social grants, and how to access these, has been good, even in deep rural communities. Ongoing media and community outreach campaigns in all official languages, in particular over the past 12 months due to changes in the management of the disbursement contract, has had the added impact of heightening awareness.

168. Assessment criteria have been strengthened to ensure consistency through the Harmonised Assessment Tools for both children and adults with disabilities.

169. The South African Social Security Agency (SASSA) reverted to insourcing medical doctors across the country to expedite assessments for care dependency and disability grants in order to address the backlog that built up in the public health sector. This has enabled the Agency to declare a waiting period of 1 month for an assessment to be conducted, as backlog, which is monitored across the country on monthly basis.

170. An Appeals Committee has been strengthened, which provides recourse to applicants whose applications have been rejected.

(b) Any reports of the implementation and outcomes of the National Disability Plan (2012) and its concrete impact in improving the living conditions of all persons with disabilities information concerning the impact of measures to support "indigent" persons with disabilities in areas such as accessibility, living independently and being included in the community and fight against poverty;

171. In responding to this question, it is assumed that the question is referring to the National Development Plan of 2012, as there is no "National Disability Plan" of 2012.

172. A disability-disaggregated analysis of the National Development Plan (NDP) was conducted in 2014 to ensure that planning and implementation of the NDP have equitable beneficiation and participation by persons with disabilities. This analysis established that, if the NDP strives to reduce inequality, that a 7% target for inclusion should be a key factor in disability mainstreaming in all programmes across government. This critical measureable aspect of inclusion was embedded in the WPRPD.

173. The Medium Term Strategic Framework is an articulation of the implementation of the NDP for every five years of term of office of new administrations following national and provincial elections. An example of current MTSF indicators that talk directly to improving the lives of persons with disabilities include:

- Number of members of the public reached by programmes to raise awareness and knowledge of the Constitution amongst vulnerable and marginalized groups;
- Employment Equity targets for all target groups approximates the demographics of the country across all levels;
- Number of Integrated Development Plans (local government plans) mainstreaming issues of women, child headed households and persons with disabilities;
- Social grants coverage;
- An inequality reduction of 5% on the Disability Index

174. The last indicator was the catalyst for the country to work on the development of a Disability Inequality Index. This index is the first of its kind and can be juxtaposed with the Human Development Index as well as the Gender Inequality Index. Cabinet approved the piloting of the Index in 2017, and it is currently being piloted to refine aspects such as standardisation of disability measure, among others.

175. It is acknowledged that insufficient attention was given to disability disaggregation and inclusion in the current MTSF. The work done over the past 5 years in strengthening statistical and administrative data disaggregation, the release of the WPRPD, as well as the finalisation of the 2030 Agenda on Sustainable Development has however enabled the country to commence work on a more disability inclusive MTSF for 2020–2025.

(c) Measures to ensure persons with disabilities have access to the food security programmes, sanitation, clean water and accessible housing.

176. Children and adults with disabilities remain a designated targeted group for all social protection programmes, and indigent families qualify for a number of rebates and free services, as elaborated in the Initial Country Report.

Participation in political and public life (art. 29)

31. Please describe concrete measures in place to maintain and increase the representation of persons with disabilities in Parliament, the provincial legislatures and local governments.

177. The National Framework on Self-Representation by Persons with Disabilities, currently being consulted with representative organisations of persons with disabilities and public sector stakeholders, will elaborate on measures to be put in place, inclusive of legislative measures.

Please also inform about measures to improve accessibility to the physical environment of voting centres, particularly in rural areas, as well as the right of persons with psychosocial and/or intellectual disabilities to participate in elections. Please also inform on the availability of information in accessible formats, such as Braille, Sign language and Easy Read.

178. The measures outlined in the Initial Country Report with regards improving accessibility to both voting stations as well as voting procedures for persons with disabilities, are strengthened with each election in consultation with representative organisations of persons with disabilities. The design of mobile collapsible voting station

furniture now for example includes polling booths with a lower height for voters of short stature and/or voters using wheelchairs.

179. Voter education learning materials are made available in Braille and audio.

180. Sign language interpreters are used at electoral launches and sector-specific trainings.

Participation in cultural life, recreation, leisure and sport (art. 30)

32. Please provide information on measures taken towards ratification of the Marrakesh treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled.

181. South Africa is currently amending its Intellectual Property (IP) Policy, as well as amending the Copyright Act of 1978. Cognisance was given to incorporate aspects of the Marrakesh Treaty into the above amendment processes.

182. Once the above processes have been completed, the Inter-Ministerial Committee on Intellectual Property will analyse all WIPO Treaties, including the Marrakesh Treaty, in order to determine whether they present opportunities that could benefit the country.

33. Please inform on measures adopted to provide persons with disabilities equal access to community life, cultural, social and sporting activities.

183. The information provided in the Initial Country Report remains relevant and up to date.

C. Specific obligations (Arts. 31–33)

Statistics and data collection (art. 31)

34. Please indicate what measures have been put in place to engage with persons with disabilities, through their representative organizations, in the process of designing data collection systems and methodologies.

184. The National Disability Statistics Advisory Group was established in 2017. The objectives of the disability advisory group include, providing expert opinion to Statistics South Africa in relation to disability statistics as sourced from both questionnaire survey and administrative data sources; informing decisions related to new initiatives in relation to the measurement of disability statistics; and advising on improved integration and the standardization of terms and definitions used in the disability sector. The group consists of representatives from government, academic and representative organisations of persons with disabilities.

Please also provide information on the State party's use of the Washington Group set of questions on disability in its statistical data collection policy and programmes, including in censuses and household surveys.

185. The research study to test the UNICEF/Washington Group module for measurement of disabilities among children (2–17 years of age), was completed. Implementation of the module has been put on hold due to the following reasons:

- The module is too long and needs to be shortened if it is to be appended to existing data collection tools. A compounding challenge to shortening the module however remains in that it is difficult to cut out specific questions without affecting the flow or quality of what the module is intending to measure;
- The second option suggested following testing was to implement a stand-alone module. However, funding remains an obstacle;
- The sample size of the General Household Survey is too small to adequately measure disability and even more inadequate to focus on the age group 0–5 years.

International cooperation (art. 32)

35. Please indicate measures taken to involve persons with disabilities and their representative organisations in the design and implementation of international co-operation agreements, and particularly those on the implementation of sustainable development goals.

186. No measures are currently in place to include persons with disabilities and representative organisations in the design and implementation of international cooperation agreements.

National implementation and monitoring (art. 33)

36. Please provide information about the role of the Department of Social Development with regard to the focal points to be designated under article 33 (1) of the Convention and comment on the place of other focal points within government to do likewise.

187. The South African Constitution provides for the President, upon taking office, to decide on the macro-organisation of the state, therefore including designation of the national disability rights coordinating mechanism. Similar provisions exist for Premiers of provinces. Former President Zuma as such, upon taking office in 2014, located the national disability rights coordinating mechanism (Art 33 (1)) in the Department of Social Development during macro-reorganisation of the state. Two provinces followed suit, but the location of the remaining 7 provincial disability rights coordinating mechanisms remained in the Offices of Premiers.

188. The role of the national disability rights coordinating mechanism has not fundamentally changed since its relocation to the Department of Social Development. The WPRPD advocates that "Placement must be in accordance with the general system of organisation of functions. The role and functions of the national disability rights coordinating mechanism include:

- Coordination of and technical support for the implementation of the WPRPD;
- Development and coordination of the five year national disability rights programme of action, aligned with the MTSF;
- Monitoring of and reporting on compliance with the UNCRPD and other international disability-related treaties;
- Coordination and management of government-wide disability rights cooperative governance forums at national level."

37. Please provide information on measures aimed at establishing an independent monitoring mechanism, in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) to monitor the implementation of the Convention, including measures for ensuring the full and effective participation of persons with disabilities and their representative organisations within such framework.

189. Section 13 (1) (b) of the South African Human Rights Commission Act, 2013 provides that the SAHRC "must monitor the implementation of, and compliance with, international and regional conventions and treaties, international and regional covenants and international and regional charters relating to the objects of the Commission", and requires of the SAHRC to prepare and submit reports to the National Assembly pertaining to any of these human rights instruments. Section 11 of the Act makes provision for the establishment of a Committee for purposes of advising the Commission. This Committee may exercise such powers as the Commission assign to it. A Section 11 Committee on the Rights of Persons with Disabilities has been established.